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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,273	11/06/2000	Charles Eric Hunter	WT-13	8435

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EXAMINER

NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/707,273	Applicant(s) HUNTER ET AL.	
	Examiner CUONG H. NGUYEN	Art Unit 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is the answer to the amendment received on 5/09/2005, which paper has been placed of record.
2. Previous claims (1-39) are canceled, new claims 40-72 are pending.

Claim Rejections - 35 USC § 102

3. **Claims 40-42, 48, 52-54, 60, 62, and 64-71 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulhof et al., (U.S. Pat. 5,572,442).**

Schulhof et al. teach a method, a computer medium, and an apparatus for distributing music comprising:

A. As to claims 40-42, 48, 52-54, 60, and 64-70:

- a recording device configured to enable automatic charging of a consumer for a music selection, said charging triggered upon the consumer recording the music selection on a storage medium located in the recording device (see Schulhof et al., the abstract, and Fig.1 ref.24).
- Fig.7 shows a request for available music from a customer (ref.204) and “Info Request Manager” 22 would fulfill that request by transmitting from “Satellite Distribution System” 200.

B. As to claims 50, and 62: In Fig. 7, Schulhof et al. teach about communicating an order of said music selection to a central controller (“Info Request Manager” 22), transferring copies of records of said order to a transmission scheduler (see Schulhof et al., col. 1 lines 64-67); communicating schedules created by said transmission scheduler to a satellite uplink facility for transmission of said order; and transmitting via satellite said order to said customer site.

C. As to claim 71: In Fig. 1, Schulhof et al. teach about a receiving mechanism (A “Portable Storage Medium” 50 coupling to a “Docking Interface Device” 36 for identifying available music.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 49, 51, 61, 63, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al.

A. Schulhof et al. teach a product/a system/a method of distributing music to customer households comprising a step/or a means of:

- providing each customer household with information identifying available music selections that will be transmitted (see Schulhof et al., the abstract, Figs. 1, 4, and 6; col.5 lines 6-20, lines 50-67; col.7 lines 5-53, and col.9 lines 20-26);
- permitting each customer household to preselect and record desired music selections on a high capacity storage medium (i.e., read/write CDs, magneto-optical disks, or digital tapes .etc. - see Schulhof et al., the abstract, Figs. 1, 4, and 6; col.5 lines 6-20, lines 50-67; col.7 lines 5-53, and col.9 lines 20-26);
- permitting each customer household to playback recorded music selections (see Schulhof et al., Figs. 1, 4, and 6; col.4 lines 48 to col. 5 line 67; col.7 lines 5-53, and col.9 lines 20-26);
- communicating music playback information from each customer household to a central controller system; and billing customer households for the recorded music selections that are made available for playback (see Schulhof et al., col.4 line 48 to col. 5 line 20, col.6 lines 24-52; col. 7 line 54 to col. 8 line 53, col.10 lines 42-65, and col.9 lines 20-26).

B. Re. To claims 51, and 63: Schulhof et al.'s Fig.7 teaches a structural configuration to distribute ordered music.

It would have been obvious to an ordinary skill in the art at the time of invention from Schulhof et al.'s teachings that an order would be done by using a home personal computer, using a cell phone, using a PDA wireless or using a wireless application protocol because those are available means for remote communications between an ordered and a provider.

C. Re. To claims 49, 61, and 72: Schulhof et al.'s Fig.7 teach a structural configuration where a charge/bill to a requester would be applied/sent after transmitting requested music by "Billing/Accnt. Manager" 24.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 43, 55, 44, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442), in view of McMillen et al. (US Pat. 5,483,535).**

The rationales and reference for a rejection of claim 40 are incorporated.

A. As to claims 43, and 55: Schulhof et al. teach all claimed information in these claims except a peer-to-peer communication network utilizing residential phone lines, modem, and Internet. Schulhof et al. also teach about scheduling a broadcast for the order based upon ordered records.

However, McMillen et al. suggest a use of peer-to-peer communication network for music trans-receiver/sharing (see McMillen et al., the abstract, and the summary).

B. As to claims 44, and 56: McMillen et al. also suggest of using a master-slave serial communications controller and an adapter to enable the interface to operate in a peer-to-peer mode on the network.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine Schulhof et al., and McMillen et al. teachings to suggest that product/system/method 's taking place in a peer-to-peer environment because this environment fit with distributing music among different parties for one copy of requested music: while one device is sending data, there is not another device on the ring sending instead, the data sent by that device goes all the way around the ring and back to the sender.

6. **Claims 45, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulhof et al. (US 5,572,442)., in view of McMillen et al. (US Pat. 5,483,535).**

The rationales and references for a rejection of claim 43 are incorporated.

Schulhof et al., and McMillan may not expressly disclose about placing an highlight, or an icon within a catalog.

- However, it is old and well-known of using bookmarks, or flags, or any computer object to get immediate attention of a catalog user for availability/comparison (e.g., using different color flags in a catalog - e.g., Wiecha, US Pat. 5,870,717 teaches of using “compare” icons (with different high-lights in a catalog; Storey US Pat. 6,009,412 teaches of using an icon in the a PRODUCT HOMEPAGE 100A in a catalog; Bruno et al. teach of using an icon in an electronic catalog, US Pat. 6,320,952).

- creating a customer's profile (e.g., Khoyi et al., (US Pat. 5,206,951) teach about creating and using different profiles according to different objects/customer with a profile editor);
- Using a cell-phone, or using a Personal Data Assistant (PDA) to order; or ordering via wireless application protocol (WAP) has been known different wireless communication means for ordering.

- It would have been obvious to one of ordinary skill in the art at the time of invention to combine Schulhof et al., and McMillen et al., and the above well-known applications to suggest that product/system/method using available notifying (e.g., icon objects) and creating different profiles for an efficient task of operating a music distribution system.

Conclusion

7. Claims **40-72** are not patentable. The applicants cancel previous set of claims and submits new claims 40-72; accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Note: The Random House American dictionary published on 1983 discloses that a verb “charge” is equivalent to a verb “bill”.

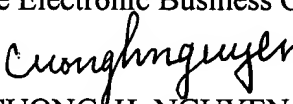
- recording data: copying data for playing/retrieving purposes.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for

the organization where this application is assigned is 571-273-6759.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


CUONG H. NGUYEN
Primary Examiner
Art Unit 3661